

ADMINISTRATIVE RULES SUMMARY

TO: Medical Care Advisory Committee

FROM: Dawn I. Landry, OMBP Medicaid Eligibility Policy Specialist

DATE: 07.25.2016

RE: Rules Related to the Protected Income Level and Four Month and Twelve Month Extended Medical Assistance

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- 1. Status:** The Department recently shifted the rulemaking responsibility for rules related to Medicaid eligibility from the Division of Family Assistance (DFA) to the Office of Medicaid Business and Policy (OMBP). There were several sets of rules expiring between July and October that were in various stages of development when the transfer occurred. In order to prevent the rules from expiring and subject to extension under RSA 541-A:14-a the rulemaking process for this set of rules needed to begin prior to MCAC review.

The Department is requesting the rules be placed on the 08/08/2016 "consent agenda".

2. Target Dates.

Rule to MCAC via email: 07/25/2016

Rule presented to MCAC: 08/08/2016

Public hearing: 07/21/2016

MCAC deadline to request presentation: N/A

RNF published: 06/30/2016

JLCAR: 09/15/2016

3. Rule Summary:

Reason for rulemaking (e.g., expiration, statutory change, policy change). Expiration. . He-W 658.04, He-W 682.04, and He-W 682.05 are scheduled to expire July 19, 2016, but are subject to extension pursuant to RSA 541-A:14-a.

Description of the specific changes being proposed to the rule: The Department of Health and Human Services (Department) is proposing to readopt the three rules into Chapter He-W 800, the chapter where all rules associated with medical assistance are now located, as He-W 854.08, He-W 882.04, and He-W 882.05 respectively:

He-W 658.04, renumbered as He-W 858.04, describes protected income levels used to determine eligibility for medically needy medical assistance. The Department is proposing no changes to this rule.

He-W 682.04, renumbered as He-W 882.04, describes 4-month Extended Medical Assistance (EMA). The Department proposes amending the rule to replace references to increased child support with references to increased spousal support as a reason for eligibility for 4-month EMA. Pursuant to 42 CFR 435.115, as amended, and 42 USC 1396u-1(c)(1), 4-month EMA is offered to persons meeting the eligibility requirements who subsequently become ineligible as a result (wholly or partly) of the collection of new or increased spousal support:

Existing 42 CFR 435.115(f)-(h) require a 4 –month Medicaid extension for families who otherwise would lose coverage due to increased income from collection of child or spousal support under title IV-D of the Social Security Act. On January 22, 2013, the Centers for Medicare and Medicaid Services (CMS) issued a notice of proposed rulemaking to revise §435.115 to limit this requirement to spousal support because while spousal support is counted as income under Modified Adjusted Gross Income (MAGI) based methodologies, child support is not. Therefore an increase in child support will not affect Medicaid

eligibility for parents or children. Because 4-month EMA would never be provided for this reason, the Department is proposing to remove the references to child support in the rule to align the proposed rule text with the federal mandates.

He-W 682.05, renumbered as He-W 882.05, describes 12-month EMA. The Department proposes adding expanded citations for clarity.

Description of any fiscal impact to recipients, providers, or the State of New Hampshire.

There is no anticipated cost associated with the adoption and renumbering of these rules.

4. Issues of Concern: There are no issues of concern.

5. Department Contacts:

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- Catherine Bernhard, Rules Coordinator, 271-9274, Catherine.Bernhard@dhhs.state.nh.us

Please send all comments (including specific language changes) to: Dawn I. Landry, dilandry@dhhs.state.nh.us

Readopt and renumber He-W 658.04, effective 7-19-08 (Document #9208), as He-W 858.04, and hold He-W 658.04 in reserve, so that He-W 858.04 is cited and reads as follows:

PART He-W 858 STANDARD OF NEED

He-W ~~68~~58.04 Protected Income Level.

(a) The department shall use a set of standards called the protected income levels (PIL) to determine eligibility for all categories of medically needy medical assistance, with the exception of individuals eligible for nursing facility care, whose eligibility for medically needy medical assistance shall be determined pursuant to He-W 658.05.

(b) The maximum monthly PIL shall be as listed in Table 600.11, protected income levels, below:

Table 600.11, Protected Income Levels

Assistance Group Size	Protected Income Levels
1	\$591
2	\$675
3	\$683
4	\$691
5	\$698
6	\$779
7	\$842
8	\$935
9	\$987
10	\$1064
11	\$1151
12	\$1223
For each additional person over 12, \$67 shall be added.	

Readopt with amendment and renumber He-W 682.04, effective 7-19-08 (Document #9207), as He-W 882.04, and hold He-W 682.04 in reserve, so that He-W 882.04 is cited and reads as follows:

PART He-W 882 TERMINATION OF MEDICAL ASSISTANCE

He-W ~~68~~82.04 Four Month Extended Medical Assistance Due to New or Increased ~~Child~~ Spousal Support. Pursuant to 42 CFR 435.115, as amended, and 42 USC 1396u-1(c)(1), medical assistance shall be extended for 4 additional months when the primary reason for the termination of ~~financial assistance to needy families or~~ categorically needy medical assistance is increased income which was caused in whole or in part by new or increased-child spousal support income.

Readopt with amendment and renumber He-W 682.05, effective 7-19-08 (Document #9207), as He-W 882.05, and hold He-W 682.05 in reserve, so that He-W 882.05 is cited and reads as follows:

PART He-W 882 TERMINATION OF MEDICAL ASSISTANCE

He-W ~~68~~82.05 Twelve Month Extended Medical Assistance.

(a) Assistance groups receiving a category of financial assistance to needy families (FANF) financial assistance, as defined in He-W 601.04(g), shall be eligible to receive up to 12 months of extended medical assistance when termination of FANF financial assistance ~~to needy families~~ was due solely to:

- (1) Increased hours of employment; or
- (2) Increased income from employment.

(b) If one of the conditions in (a)(1)-(2) above are met, the requirement that the household has received financial assistance in at least 3 of the last 6 months shall not apply, pursuant to 42 USC 1396r-6(a)(1)(B).

(c) Good cause for failure to return a complete quarterly report timely, as required by 42 USC 1396r-6(b)(2)(B), shall be limited to the following circumstances:

- (1) Mail delay;
- (2) Illness of the parent or caretaker relative, or other family member; or
- (3) Emergencies such as floods, fires, loss of shelter, or similar events which prevent the family from returning the form quarterly report on time.

APPENDIX

<u>Rule</u>	<u>RSA/ Federal Citation</u>
He-W 858.04 (formerly He-W 658.04)	42 USC 1396b(f)(1)(A)-(C); 42 USC 1396u-1(b)
He-W 882.04 (formerly He-W 682.04)	42 CFR 435.115(f)-(h); 45 CFR 233.20(a)(15); 42 USC 1396u-1(c)(1)
He-W 882.05 (formerly He-W 682.05)	RSA 167:82, VI; 42 USC 1396r-6; 42 USC 1396u-1(c)(2)